

Art Unit: 3643  
Serial No: 09/816,016

#### REMARKS

Claims 1-5, 7-23, 25-40 were examined. By present amendment, claims 27, 30 and 32 were amended to more particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Support for the amendments is found throughout the drawings and specification as filed. No claims were added or cancelled. Thus, after entry of this Amendment, claims 1-5, 7-23, 25-40 will be pending in the application.

#### Allowable Subject Matter

Applicant gratefully acknowledges the Examiner's indication that claims 1-5, 7-23, 25, 26, 33-36, 39 and 40 are allowed.

#### Objections to the Specification

The Patent Office objected to the specification because the element labeled "22" on page 10, line 20, should have been labeled "28."

In response, Applicant has amended the Specification at page 10, line 20, so that the element labeled "22" is now labeled "28."

Withdrawal of the objection is respectfully requested.

#### Objection to the Drawings

The Patent Office stated that the drawings were objected to under 37 C.F.R. §1.83(a) because the "hanger attached to the top" of the unit, as described in claims 30 and 34, must be shown or the feature(s) canceled from the claims.

Applicant respectfully disagrees with the Examiner.

Art Unit: 3643  
Serial No: 09/816,016

Applicant has amended claim 30 to clarify that the hanger is attached to a seed holder cap, rather than to the "top" or cover. Applicant believes that a new drawings is not required, as this feature is shown throughout the drawings as filed.

Claim 34 does not include the language "hanger attached to the top" of the unit, which language also is not found in any of the other claims. Applicant respectfully requests clarification of the same.

Withdrawal of the objections is respectfully requested.

Rejections under 35 U.S.C. §102(b)

Claims 27-32, 37, and 38 were rejected under 35 U.S.C. §102(b) as being anticipated by Wild Birds Forever website ([www.wildbirdsforever.com](http://www.wildbirdsforever.com)) (hereinafter "the Duncraft reference").

Applicant respectfully disagrees.

The Duncraft reference discloses a top with ridges therein, and smooth sections between the ridges. The ridges provide a gripping surface for squirrels.

In contrast, claims 27 and 32 as amended, recite a removable top that is ridge-free and substantially smooth. The ridge-free and substantially smooth structure of the removable top means that it does not include a gripping surface for squirrels.

Because each and every element of independent claims 27 and 32 are not disclosed in any of the cited references, they cannot be anticipated and are allowable. The claims that depend from claims 27 or directly or indirectly are allowable for at least the same reasons. Withdrawal of the rejection is respectfully requested.

In addition, the Duncraft reference fails to teach or suggest a removable top for a bird feeder top that is ridge-free and substantially smooth.

Art Unit: 3643  
Serial No: 09/816,016

CONCLUSION

In view of the foregoing amendments and remarks, the Applicant respectfully submits that all of the claims pending in the above-identified application are in condition for allowance, and a notice to that effect is earnestly solicited.

If the present application is found by the Examiner not to be in condition for allowance, then the Applicant hereby requests a telephone or personal interview to facilitate the resolution of any remaining matters. Applicant's attorney may be contacted by telephone at the number indicated below to schedule such an interview.

The U.S. Patent and Trademark Office is authorized to charge any additional fees incurred as a result of the filing hereof or credit any overpayment to our deposit account #19-0120.

Respectfully submitted,  
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